

**Before the  
Federal Communications Commission  
Washington, DC 20554**

**FCC 17M-06**  
10760

In the Matter of	)	EB Docket No. 14-82
	)	
<b>PATRICK SULLIVAN</b>	)	FRN: 0003749041, 0006119796,
(Assignor)	)	0006149843, 0017196064
	)	
and	)	Facility ID No. 146162
	)	
<b>LAKE BROADCASTING, INC.</b>	)	File No. BALFT-20120523ABY
(Assignee)	)	
	)	
For Commission Consent to the Assignment of	)	
License of FM Translator Station W238CE,	)	
Montgomery, Alabama	)	

**ORDER**

**Issued:** February 16, 2017

**Released:** February 16, 2017

On February 16, 2017, the Presiding Judge held a Prehearing Conference to set a new hearing date and address any outstanding issues. During the conference, the hearing was reset for May 2, 2017. Counsel were instructed to jointly submit hearing procedural dates within ten (10) calendar days. It was also noted that Dr. Kimberly Weitzel, an expert witness for the Enforcement Bureau (Bureau), would be testifying in another proceeding immediately prior to the hearing. Dr. Weitzel has requested to testify on May 4, 2017, to which all the parties acquiesced.

Most of the discussion at the conference concerned the Bureau's other witness, Ms. Tammy Gremminger, a parole and probation officer for the Missouri Department of Corrections. First, Ms. Gremminger's office has requested that Ms. Gremminger testify via video link. The Presiding Judge stated at the conference that he would decide and let counsel know.

Having deliberated, the Presiding Judge has decided as follows: Ms. Gremminger may testify, at least initially, via video link. *However*, the Presiding Judge reserves the right to require Ms. Gremminger to finish her testimony in person, in the event that the Presiding Judge determines during the course of her testimony that using video is inadequate.

There has also been some uncertainty surrounding Ms. Gremminger's participation in this proceeding. After being deposed and promising to provide documentation regarding her expert

qualifications, Ms. Gremminger did not respond to the Bureau's repeated attempts to follow up with her.

On December 12, 2016, the Bureau filed a motion representing that a colleague of Ms. Gremminger's told them that "apparently someone claiming to represent Mr. [Michael] Rice had threatened to pursue legal action against Ms. Gremminger if she continued to participate in the Commission's hearing process." Enforcement Bureau's Motion Concerning Witness Documentation. The Presiding Judge ordered Mr. Rice to file a declaration under oath attesting as to whether or not he was involved. *See Order*, FCC 16M-37 (rel. Dec. 22, 2016). Counsel for Lake filed Mr. Rice's declaration on December 23, 2016, which stated that "[n]either [Mr. Rice] nor anyone else at [his] direction . . . has contacted Ms. Tammy Gremminger or the Missouri Department of Corrections at any time" to threaten her involvement in this proceeding.

On January 10, 2017, Bureau counsel circulated an email to the Presiding Judge and counsel, stating that Bureau counsel had been in contact with counsel for the Missouri Department of Corrections, a Mr. Jay Boresi, who "requested that [Bureau counsel] send Ms. Gremminger a subpoena before contacting Ms. Gremminger further." Bureau counsel noted that "Mr. Boresi did not provide any further details regarding why we have lost contact with her." The Presiding Judge signed the Bureau's requested subpoenas the same day.

On February 3, 2017, the Bureau filed a Status Report indicating that it had received the subpoenaed information, and that Ms. Gremminger "has been cleared by her office to participate in the FCC hearing as provided or in the Bureau's subpoena." Enforcement Bureau's Status Report at 1-2, para. 2. However, Lake objected to the Status Report on five grounds:

- (1) The Bureau did not provide copies of the subpoenas;
- (2) The Bureau did not provide copies of the subpoena responses;
- (3) The list of cases in which Ms. Gremminger has testified "does not include important identifying information such as the Court, the Judge, and the type of testimony that Ms. Gremminger was providing";
- (4) The list of Ms. Gremminger's certifications does not include copies of certificates or any other identifying or validating information beyond the names and dates of the certifications; and
- (5) There has been no explanation as to "why any review of Ms. Gremminger['s] earlier role in this case was being conducted" by the Missouri Department of Corrections.

Lake Broadcasting, Inc.'s Opposition to Enforcement Bureau's Status Report at 3-4, para. 6 (Feb. 7, 2017).

The Bureau has since provided copies of the subpoena and subpoena responses, rendering the first two issues moot. *See Supplemental Status Report* (Feb. 15, 2017). As to the third and fourth issues, the Bureau has represented that it will make an effort to obtain further information.

The fifth issue was discussed extensively during the conference. Upon further questioning by the Presiding Judge, it appears that the statement from Ms. Gremminger's colleague, noted above, could not be verified. However, Bureau counsel indicated that they believed that the legal department would have required a subpoena regardless of any allegations concerning Mr. Rice. Regardless, the Bureau was put on notice that this topic would be explored further during the *voir dire* of Ms. Gremminger.

The above matters being resolved, counsel shall jointly submit hearing procedural dates within ten (10) calendar days, with the hearing to commence on **May 2, 2017**.

**SO ORDERED.**

FEDERAL COMMUNICATIONS COMMISSION<sup>1</sup>

A handwritten signature in black ink, reading "Richard L. Sippel". The signature is written in a cursive, flowing style.

Richard L. Sippel  
Chief Administrative Law Judge

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<sup>1</sup> Courtesy copies of this Order will be sent via email to each counsel of record on the date of issuance.